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June 3, 2022

By ECF

Honorable Gregory H. Woods
United States District Judge
Southern District of New York
500 Pearl Street, Room 2260
New York, New York 10007

Re: *United States v. Ethan Phelan Melzer*, S1 20 Cr. 314 (GHW)

Dear Judge Woods:

At the May 4, 2022 conference in this matter, the Court directed the parties to submit proposed limiting instructions regarding certain categories of evidence that the Court has ruled admissible at trial. Ethan Melzer requests that the Court issue the following limiting instructions:

1. O9A, jihadist materials

Certain videos, images, and documents regarding O9A and other extremist groups have been admitted into evidence. I instruct you that Mr. Melzer is not on trial for committing any of the acts depicted in these materials. Moreover, the First Amendment of the United States Constitution protects every individual's right to freedom of speech, freedom of association, and freedom of religion. Mr. Melzer has a First Amendment right to possess and view these materials. He is not on trial, and cannot be convicted, for holding or expressing any particular religious or political beliefs or associations. This evidence has not been admitted for the truth of its contents. You may instead consider this evidence, to the extent you find it relevant, as to Mr. Melzer's mental state. But you must not allow evidence that he held or expressed beliefs with which you disagree to act as a substitute for proof beyond a reasonable doubt of the charged offenses.

Hon. Gregory H. Woods
United States District Judge

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See United States v. Kazuu, 559 F. App'x 32, 35–36 (2d Cir. 2014); *United States v. Farhane*, 634 F.3d 127, 170 (2d Cir. 2011); *United States v. Salameh*, 152 F.3d 88, 112 (2d Cir. 1998).

2. Statements re lack of patriotism

You have heard evidence that Mr. Melzer made statements to another individual concerning his purported lack of patriotism. I instruct you that he has a First Amendment right to hold and express his political beliefs and to make political statements. Mr. Melzer is not on trial, and cannot be convicted, for holding any particular beliefs or making any political statements. You may instead consider this evidence, to the extent you find it relevant, as to Mr. Melzer's mental state. But you must not allow evidence that he held or expressed beliefs with which you disagree to act as a substitute for proof beyond a reasonable doubt of the charged offenses.

See United States v. Kazuu, 559 F. App'x 32, 35–36 (2d Cir. 2014); *United States v. Farhane*, 634 F.3d 127, 170 (2d Cir. 2011); *United States v. Salameh*, 152 F.3d 88, 112 (2d Cir. 1998).

Respectfully submitted,

/s/ _____

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cc: Government counsel